

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	[AWA-D]
Aaron B. Bloom)	Docket No. 12-0355
)	
Petitioner)	Decision and Order

Appearances:

Aaron B. Bloom, who represents himself (appears *pro se*), the Petitioner; and

Colleen A. Carroll, Esq., Office of the General Counsel, United States Department of Agriculture, Washington, D.C., for the Respondent (APHIS).¹

Decision Summary

1. APHIS properly denied the 5 applications at issue here for a license under the Animal Welfare Act, as amended (7 U.S.C. § 2131 *et seq.*) (“AWA” or “Act”). In each instance, the application was not complete, and denial was proper for that reason. In each instance, denial was in accordance also with a regulation issued pursuant to the Act, 9 C.F.R. §§ 2.11(a)(5) and (a)(6).

Procedural History

2. Aaron B. Bloom (“Petitioner Bloom” or “Petitioner”) filed his Petition on April 11, 2012, requesting a hearing on APHIS’s denial of his application for a USDA Animal

1. The Respondent is the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture (APHIS), represented by Colleen A. Carroll, Esq.

Welfare Act license.

3. The “Response to Request for Hearing” was filed on April 26, 2012, by the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture (“APHIS” or “Respondent”).

4. APHIS filed a Motion for Summary Judgment on October 2, 2012; and Petitioner Bloom’s “Response to Motion for Summary Judgment” was filed November 15, 2012, asking that I deny APHIS’s Motion and proceed with a hearing. This Decision and Order GRANTS in part and DENIES in part APHIS’s Motion for Summary Judgment.

5. The following Mixed Findings of Fact and Conclusions of Law, rely on Petitioner’s exhibits PX 1 through PX 4; APHIS’s exhibits RX 1 through RX 16; and the Declaration dated October 1, 2012 attached to APHIS’s Motion for Summary Judgment filed October 2, 2012.

Mixed Findings of Fact and Conclusions of Law

6. Aaron B. Bloom, the Petitioner, does business in the State of New York.

7. Petitioner Bloom’s business Aaron’s Roaming Reptiles does not require a USDA Animal Welfare Act license.

8. Petitioner Bloom applied for a USDA Animal Welfare Act license, and my analysis here focuses on 5 of those applications:

2011, June 1
2011, June 30
2011, July 19
2011, August 10
2012, January 13 (rec’d January 23).

9. Petitioner Bloom wants “his own fitness” (to be licensed to exhibit) to be measured without reference to Jeffrey W. Ash, an individual doing business as Ashville Game Farm. I see Petitioner Bloom’s point. Jeffrey W. Ash had his Animal Welfare Act exhibitor’s license (21-C-0359) terminated. *See In re Jeffrey W. Ash*, decided September 14, 2012 by the Judicial Officer in AWA Docket No. 11-0380 (RX 16), found on-line at <http://www.nationalaglawcenter.org/assets/decisions/ash.pdf>

So I will analyze whether Petitioner Bloom’s own fitness can be measured without reference to Jeffrey W. Ash. Each of the 5 applications at issue here is considered, (a) through (e).

(a) Petitioner Bloom’s AWA application submitted in 2011 on June 1 indicated Petitioner Bloom would be “purchasing 21-C-0359” (Jeffery W. Ash’s license). So, that application, even if it had been properly completed, could not have been evaluated without reference to Jeffrey W. Ash. RX 3.

(b) Petitioner Bloom’s AWA application submitted in 2011 on June 30 indicated Petitioner Bloom would be operating a roadside zoo and showed the same address for Petitioner Bloom as was the address for Jeffrey W. Ash, doing business as Ashville Game Farm, that is, 468 Lick Springs Road, Greenwich, NY 12834. So, that application, even if it had been properly completed, could not have been evaluated without reference to Jeffrey W. Ash. RX 5.

(c) Petitioner Bloom’s AWA application submitted in 2011 on July 19 was more complete but had the same flaw, showing that the business was the

same business as was being operated by Jeffrey W. Ash, even with the same business name “Ashville Game Farm”, 468 Lick Springs Road, Greenwich, NY 12834. So, that application, even if it had been properly completed, could not have been evaluated without reference to Jeffrey W. Ash. RX 7.

(d) Petitioner Bloom’s AWA application submitted in 2011 on August 10 again had the same flaw; it was for a business already being operated by a licensee who had not terminated his license and who was occupying the premise at 468 Lick Springs Road, Greenwich, NY 12834. That licensee was Jeffrey W. Ash, doing business as Ashville Game Farm. So, that application, even if it had been properly completed, could not have been evaluated without reference to Jeffrey W. Ash. RX 9 and RX 10.

(e) Petitioner Bloom’s AWA application dated in 2012 on January 13, and received by APHIS in 2012 on January 23, showed the business name as “Adirondack Family Zoo”:

Adirondack Family Zoo
424 Anthony Rd
Greenwich, NY 12834

County: Washington Phone: [same as Aaron B. Bloom’s]

Did this January 2012 application contain a connection to Jeffrey W. Ash ?

Yes. The address is real estate in the vicinity of (adjacent to) Jeffrey W.

Ash’s premise at 468 Lick Springs Road, Greenwich, NY 12834.

By choosing this site (PX 4) as his business location, Petitioner Bloom has

maintained the same impression that he created and sustained through all 5 applications. What impression is that? The impression that the “circumstances” “circumvent the order” terminating 21-C-0359, the license of Jeffrey W. Ash, doing business as Ashville Game Farm, 468 Lick Springs Road, Greenwich, NY 12834. RX 13.

Additionally fueling the impression of entanglement with Jeffrey W. Ash is the “Adirondack Family Zoo” paperwork, showing its location as of August 16, 2011 to be the same location as that of Jeffrey W. Ash, doing business as Ashville Game Farm [468 Lick Springs Road, Greenwich, County of Washington, State of New York]. PX 2. Then as of March 7, 2012 the “Adirondack Family Zoo” shows its location to be 424 Anthony Rd, Greenwich, County of Washington, State of New York. PX 3. This is in the vicinity of (adjacent to) Jeffrey W. Ash’s premise at 468 Lick Springs Road, Greenwich, NY 12834. So, that January 2012 application, even if it had been properly completed, could not have been evaluated without reference to Jeffrey W. Ash. RX 13.

10. Petitioner Bloom’s 5 applications considered here show that Petitioner Bloom tried very hard to step into the shoes of Jeffrey W. Ash. Even with the following “business location,” the effort continued.

Adirondack Family Zoo
424 Anthony Rd
Greenwich, NY 12834

11. In the process, Petitioner Bloom's identity was represented in his applications as if he was Jeffrey W. Ash - - for example, describing the animals held now or during the last year as if Petitioner Bloom held Jeffrey W. Ash's animals. RX 5. RX 7.

12. Under these circumstances, taking testimony will not be useful. Instead, the hearing has been held, on the written record already before me: Petitioner's exhibits PX 1 through PX 4; APHIS's exhibits RX 1 through RX 16; and the Declaration dated October 1, 2012 attached to APHIS's Motion for Summary Judgment filed October 2, 2012.

13. APHIS denied Petitioner Bloom's applications for an Animal Welfare Act license properly, because Petitioner Bloom showed through his applications that a license issued to him, Petitioner Bloom, was to "circumvent the order" terminating 21-C-0359, the license of Jeffrey W. Ash, doing business as Ashville Game Farm, 468 Lick Springs Road, Greenwich, NY 12834. Petitioner Bloom's applications for an Animal Welfare Act license violated 9 C.F.R. §§ 2.11(a)(5) and (a)(6).²

14. APHIS's denial of Petitioner Bloom's applications for a USDA Animal Welfare Act license is AFFIRMED.

Order

15. Petitioner Aaron B. Bloom is disqualified from being granted a USDA Animal Welfare Act license for a period of 1 year from the effective date of this Order. This Order is effective on the day after this Decision becomes final (*see* the following section regarding finality).

2. [and also 9 C.F.R. § 2.11(d)]

16. Petitioner Aaron B. Bloom may apply for an Animal Welfare Act license 60 days prior to the end of the 1 year period of disqualification, with the understanding that no license will issue until disqualification has ended.

Finality

17. This Decision and Order shall be final without further proceedings 35 days after service unless an appeal to the Judicial Officer is filed with the Hearing Clerk within 30 days after service, pursuant to section 1.145 of the Rules of Practice (7 C.F.R. § 1.145, see enclosed Appendix A).

Copies of this Decision and Order shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 19th day of February 2013

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

Hearing Clerk's Office
U.S. Department of Agriculture
South Building Room 1031
1400 Independence Ave SW
Washington DC 20250-9203
202-720-4443
Fax: 202-720-9776